



May 21, 2004

Notice of Final Determination
Northwest Miners Rally – Learning What Small Scale Mining is All About
SEPA File No. 04-050305

The Department of Natural Resources issued a Mitigated Determination of Non-significance (MDNS) on May 3, 2004 for this proposal under the State Environmental Policy Act (SEPA) and WAC 197-11-340(2).

This threshold determination is hereby:

☒ Retained.

☐ Modified. Modifications to this threshold determination include the following:

☐ Withdrawn. This threshold determination has been withdrawn due to the following:

☐ Delayed. A final threshold determination has been delayed due to the following:

Summary of Comments and Responses (if applicable):

Please See Attachments A & B.

Responsible Official: Gary Cooper

Position/title: Assistant Region Manager, Rivers District

Phone: (360) 767-7005

Address: 1405 Rush Road, Chehalis, WA 98532-8763

Date: May 20, 2004

Signature: _____

9/19/02

Attachment A – Responses to Comments

Comments were received from Jessica McNamara, the Washington Department of Ecology, and the Washington Department of Fish & Wildlife. Those comments are contained in “Attachment B” of this Notice of Final Determination.”

Comments of Jessica McNamara

1. DNR is the lead agency for this proposal because the SEPA rules have established a prioritized list for which agency is lead agency when more than one state agency requires a license or other form of approval. At the time of the application it was not clear whether or not Ecology would require a permit, so DNR was assumed to be the lead agency according to the prioritized list. See WAC 197-11-936.
2. Comment noted.
3. The SEPA analysis is specific to the rally, and in particular to those aspects of the rally that are not covered under the Gold & Fish Pamphlet, because the activities of prospectors that are in compliance with the Gold & Fish Pamphlet have already been addressed by Washington Department of Fish & Wildlife in their October 1998 SEPA review of the Gold & Fish Pamphlet.
- 4-6. High Banking will require authorization from the Department of Ecology. Before DNR will issue a Right-of-Entry we will require that the authorization from Ecology is obtained and that the issues raised in these questions are addressed.
7. With the exception of the proposed high banking demonstrations, water will not be withdrawn from the river. Ecology has indicated that it will have Water Quality staff on hand during the first two days of the rally to “monitor, and gather empirical data on the effects of dredging/mining operations on surface water quality standards.” [see Ecology’s comments in Attachment B].
8. The event is currently going through the process of obtaining a shoreline permit from the City of Oroville. The local government shoreline permit will address issues of access and streambank protection.

Comments of Washington Department of Fish & Wildlife

DNR has determined that it is not necessary to withdraw its threshold determination.

The issues concerning the completeness of the SEPA checklist that WDF&W is concerned about (number of people working an excavation site and number and size of excavation sites) can be addressed through the written Hydraulic Project Approval (HPA). DNR indicated in the SEPA threshold determination that conditions of the HPA and other permits would be incorporated as conditions in the Right-of-Entry.

Other issues raised in WDF&W’s comments, including high banking and public access, will be addressed through the conditions of the shoreline permit, the water right, and the HPA. These permit conditions will be incorporated into the right-of-entry.

Comments of Washington Department of Ecology

Before a right of entry will be issued for this event the applicant will need to obtain all the permits that are necessary for each proposed activity. Since high banking requires a temporary water right, the applicant will need to obtain this permit from Ecology prior to the issuance of the right-of-entry.

A note will be incorporated into the right-of-entry that reminds the applicant of the need to comply with Ecology's water quality standards, especially those for turbidity.

ATTACHMENT B

From: jessica mcnamara <jessmcna@yahoo.com>
To: <sepacenter@wadnr.gov>
Date: Sun, May 16, 2004 7:47 PM
Subject: File NO. 04-050305--NW Miner's Rally

Please accept the attached as my SEPA comments on the above.

Jessica McNamara

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May 17, 2004

To: Sepacenter@wadnr.gov

From: Jessica McNamara,
1177 N. Pine Creek Rd.
Tonasket, WA 98855

Subject: **File No. 04-050305**
NW Miner's Rally

After reviewing the applicant's SEPA checklist, I have the following comments and questions in regard to this event.

1. Why is DNR lead agency on this when the chief environmental impacts appear to be under the jurisdiction of the DOE and WDFW?
2. (p. 2, #8). "Information directly related to project" cites reports from Alaska, etc. No citations given as to reports done by DOE on water quality in the Similkameen and Oroville, i.e., high levels of arsenic and other toxic pollutants from previous and current upstream mining activities.
3. (p. 2, #11). Why is the checklist confined to the "educational rally", when the prospecting activities done by rally participants along the river that accompany this event will have the major environmental effects? SEPA analysis needs to include these impacts.
4. (p. 3). "High-banking" above Enloe Dam appears to be an activity with potential for major bank disturbance and disruption of native vegetation if conducted to any major extent. There is no analysis of how much high-banking is planned for the event, or what the impacts will be. How many sites will be high-banked? How many times will this occur over the 3 day event?
5. (p. 6, F). Again, it is unclear how much erosion will occur from high-banking, and what, if any, attempts will be made to restore native vegetation and bank erosion.
- 6 (p. 7). Will high-banking be confined to demonstration sites and done by the "educators", or will the general public be doing this as well? If so, and assuming that out of the 300+ people in attendance, at least 50 to 100 will be dredging, etc., then the environmental impacts will be considerable. This project requires a bond for subsequent restoration/planting and clean-up activities, should they be necessary.
7. (p. 7, 3a, 4) The 2004. Measurements on the Similkameen show that snowpack is far below normal. This will mean decreased summer flows, and decreased water supply for

fish, wildlife and downstream water users. Dredging activities will withdraw water; how will this affect fish and downstream flows? How will sediments, which contain arsenic and other toxic minerals, be affected by low flow dredging? What agency is monitoring this “release of toxic materials” that may accompany dredging activities by many people over a 3 day period?

8. (p. 9, d). This answer does not suffice to explain how trampling of sensitive native vegetation will be addressed by the planned activities along the River. A monitoring and bank restoration program needs to be in place before, not after, the rally occurs.

Thanks for considering the above in your review of this project.

Jessica McNamara

From: "Teresa Eturaspe" <eturatae@dfw.wa.gov>
To: <sepacenter@wadnr.gov>
Date: Mon, May 17, 2004 9:32 AM
Subject: Mitigated Determination of Nonsignificance File Number04-050305

Comments from the Department of Fish and Wildlife on Mitigated Determination of Nonsignificance File Number 04-050305 issued for the Northwest Miners Rally - Learning What Small-Scale Mining Is All About. Original hard copy will follow.

Teresa A. Eturaspe
SEPA/NEPA Coordinator
Washington State Fish & Wildlife
Habitat Program
600 Capitol Way North
Olympia, WA 98501-1091
(360) 902-2575
(360) 902-2946 FAX
<eturatae@dfw.wa.gov>



State of Washington

DEPARTMENT OF FISH AND WILDLIFE

May
7,
004

Mailing Address: 600 Capitol Way N - Olympia, Washington 98501-1091 - (360) 902-2200, TDD (360) 902-2207
Main Office location: Natural Resources Building - 1111 Washington Street SE - Olympia, WA

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Jenifer Gitchell
Washington Department of Natural Resources
SEPA Center
P.O. Box 47015
Olympia, Washington 98504-7015

Dear Ms. Gitchell,

Washington Department of Fish and Wildlife (WDFW) offers the following comments on the **Mitigated Determination of Nonsignificance File Number 04-050305 issued for the Northwest Miners Rally – Learning What Small-Scale Mining Is All About** event scheduled for August 18-22, 2004 on and adjacent to the Similkameen River near Oroville, Washington.

The SEPA checklist is not complete enough to fully identify the potential impacts of the proposed project. Specific deficiencies are identified below. WDFW requests that the MDNS be withdrawn until additional information can be provided so that appropriate mitigation can be addressed. Unless clarification can be added to the checklist, this MDNS should require limits on the number of people working an excavation site, and on the number and size of excavation sites operated during the event.

Washington Department of Natural Resources requested any new information that would alter the 1998 SEPA determination WDFW made for the mineral prospecting rules. While much additional information has been collected since that determination was issued, we do not believe it warrants a change in the SEPA determination. We would be happy to share any of the scientific information supporting our rules with you, if desired.

MDNS

1. Description of mitigation: The proposed project will require written Hydraulic Project Approval (HPA) from WDFW because it includes several activities that exceed approved activities under authority of the Gold and Fish pamphlet. To adequately mitigate the impacts of these activities, a written HPA likely will contain conditions beyond those required in the Gold and Fish pamphlet. The MDNS implies that mitigation is primarily through compliance with the Gold and Fish pamphlet, when, in fact, compliance will be with the written HPA, if issued, which may or may not reference the Gold and Fish pamphlet. That determination will be made by WDFW following receipt and review of a complete application for HPA.
2. Description of mitigation: The Gold and Fish pamphlet serves as the HPA only for a limited spectrum of mineral prospecting activities, and these activities and authorized equipment are identified in the pamphlet. With the exception of certain timing and location changes, which

may be granted through issuance of a supplemental approval to the pamphlet, authorization to engage in activities or use equipment not authorized in the pamphlet may be granted only through issuance of a written HPA. WDFW's SEPA determination issued on October 30, 1998 was restricted only to those activities authorized through the Gold and Fish pamphlet and supplemental approvals. Those activities identified in the current SEPA checklist submitted for consideration that require written HPA from WDFW are not appropriately addressed by reference to WDFW's October 30, 1998 SEPA determination. For example, WDFW did not consider the impact of using eight-inch dredges in the 1998 SEPA determination.

3. Description of mitigation: It is misleading to state "Performance measures to mitigate impacts to fish life, surface water quality, erosion, air quality and noise are contained within the Gold and Fish pamphlet". Under the Hydraulic Code (Chapter 77.55 RCW), that authorizes the Gold and Fish pamphlet, WDFW has no authority to regulate anything other than for the "proper protection of fish life." Neither the Gold and Fish pamphlet, nor any written HPA address impacts to air quality or noise, and they are limited in how they may address water quality impacts. The pamphlet does require that equipment be "well maintained and inspected frequently to prevent fuel and fluid leaks". Well-maintained equipment presumably would have less likelihood of causing air quality problems. However, neither the pamphlet nor SEPA determination addressed active measures to mitigate impacts to air quality, water quality or noise, and therefore the current SEPA determination for this project is deficient in mitigation measures to alleviate these impacts. Washington Department of Ecology would be the agency to offer appropriate mitigation for these impacts.

SEPA Checklist

1. Question A10: The proposed project will require a written HPA from WDFW, not a Supplemental HPA (there is no such classification of HPA). The proposed project includes activities and use of equipment that is not authorized by the Gold and Fish pamphlet or Supplemental Approval to the pamphlet.
2. Question A11: As in #1, above, there is no category of HPA as "Supplemental HPA". The project proponent likely means "Supplemental Approval".
3. Question A11: There is no indication of the total number of dredge sites that project proponents expect to be excavated by dredges and other equipment during the event, nor the size of those excavation sites. The scale of impacts from these activities cannot be adequately determined without that information.
4. Question A11: "motorized sluice boxes" is included in the list of equipment to be used in the event, but the area of use is not identified. Is the use of this equipment highbanking? If so, the checklist should be clarified.
5. Question A11: The checklist indicates that more than five people at one time can be present, but does not indicate the maximum number. It also does not indicate whether these people will be actively participating in the prospecting activity or simply observing. Environmental impacts will be drastically different depending on the number of participants, and cannot be adequately addressed unless identified.
6. Question B.1.b.: "Any highbanking out of the riverbed will be done immediately adjacent to the river for suitable safe public access." The Gold and Fish pamphlet restricts highbanking and other prospecting to areas either below the ordinary high water line, or greater than 200

feet landward of the ordinary high water line. Therefore, highbanking may not occur immediately adjacent to the river unless exception is granted through a written HPA.

7. Question B.1.c.: Soils above the ordinary high water line are likely not the same as those found in the wetted perimeter, or below the ordinary high water line. Rather, those above ordinary high water line contain upland soils in addition to historic riverbed materials. Soils at highbanking sites greater than 200 feet landward of the ordinary high water line would be expected to be strictly upland soils.
8. Question B.1.h.: There is no such thing as a "Non Standard HPA". A standard, written HPA is required for this project. The answer to this question presumes that WDFW will issue an HPA for the project, but since an application has not been received by WDFW, no review or decision about permitting the project has taken place.
9. Question B.3.a.4: Water for highbanking will be withdrawn from the Similkameen River regardless of whether the highbanking occurs below or outside of the ordinary high water line.
10. Question B.3.a.6: Disturbance of the bed of the river will resuspend or redistribute any toxic material within the bed, including mercury and arsenic. While much of the mercury is collected in sluice boxes and pans, some inevitably escapes back to the river. Mineral prospecting equipment does not collect arsenic and other metals, and these would be delivered back to the river with the dredge effluent.
11. Question B.3.c.: Highbanking will result in runoff of all the water pumped from the river, unless it immediately percolates through soils. The checklist does not describe how runoff will be dealt with.
12. Question B.4.d.: Indicates that the number of people per site/demonstration will be limited, yet does not identify what that number will be. This answer conflicts with other sections that do not indicate that there will be a limit on the number of participants.
13. Question B.5.d.: Project proponents should not rely on agency staff that may or may not attend portions of the proposed event to protect sensitive fish and wildlife species. WDFW has not yet identified staff to attend the event and so it is undetermined whether they have expertise in identifying susceptible species or their habitats. The WDFW SEPA determination did not address impacts resulting from activities outside of the authority of the Gold and Fish pamphlet.

Thank you for the opportunity to comment on this MDNS. We look forward to clarification of the checklist and issuance of a modified threshold determination.

Sincerely,



Teresa A. Eturaspe
SEPA Coordinator

tae

From: "Clear, Gwen" <GCLE461@ECY.WA.GOV>
To: "DNR SEPACENTER" <sepacenter@wadnr.gov>
Date: Mon, May 17, 2004 4:22 PM
Subject: 04-050305

Thank you for the opportunity to comment on the mitigated determination of nonsignificance for the Northwest Miners Rally, proposed by Greg Christensen and Resources Coalition [04-050305]. We have reviewed the environmental checklist and have the following comments.

Water Resources

Any surface water diversion requires a water right permit from the Department of Ecology. Temporary authorization for surface water diversions may be obtainable for a project such as the Miners Rally proposed by the Resources Coalition and, applications for temporary water right permits are processed expeditiously. Water right application forms can be obtained from this office and found on Ecology's Water Resources website at <<http://www.ecy.wa.gov/programs/wr/forms/forms>>
<http://www.ecy.wa.gov/programs/wr/forms/forms>. When sending applications to the Central Regional Office, please include a cover letter indicating that the application is for a temporary permit.

If you have any questions concerning the Water Resources comments, please contact Suzanne Blakeney at (509) 454-7294.

Water Quality

Activities should comply with state water quality standards, found at WAC 173-201A. Standards for turbidity are found in Table 200(1)(e).

If you have any questions concerning the Water Quality comments, please contact Pat Irle at (509) 454-7864.

Shorelands/Environmental Assistance

The Town of Oroville Shoreline Master Program (OSMP) 6.06 has outlined specific policies, and regulations governing mining operations. Ecology has the desire to see the OSMP guidance strictly adhered to during the demo/rally. Additionally, some of Ecology's Water Quality staff will attend

the first two days of the rally to monitor, and gather empirical data on the effects of dredging/mining operations on surface water quality standards.

If you have any questions concerning the Shorelands/Environmental Assistance comments, please contact Gary Graff at (509) 454-4260.

Sincerely,

Gwen Clear

SEPA Coordinator

Department of Ecology

Central Regional Office

15 W. Yakima Avenue STE 200

Yakima, WA 98902

(509) 575-2012